

United States District Court

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA

vs.

TONIA MIKAELA FLOYD

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Case No. 4:09cr128
(Judge Schell)

REPORT AND RECOMMENDATION **OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on September 14, 2009, to determine whether Defendant violated her supervised release. Defendant was represented by Denise Benson. The Government was represented by Ernest Gonzalez.

On August 5, 2004, Defendant was sentenced by the Honorable Jerry Buchmeyer to fifty-one (51) months' custody followed by two (2) years of supervised release for the offenses of Conspiracy to Make, Utter, and Possess Counterfeited Securities, Possession of Counterfeited Securities, and Aiding and Abetting. On January 28, 2008, Defendant completed her period of imprisonment and began service of her supervised term. On June 30, 2009, this case was transferred to the Eastern District of Texas, Sherman Division and assigned to United States District Judge Richard A. Schell.

On June 11, 2009, the U.S. Pretrial Services Officer executed a Petition for Warrant for Offender Under Supervision. The petition asserted that Defendant violated the mandatory condition that she not commit another federal, state, or local crime. The petition also alleged a violation of the standard condition that defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.

The petition alleges that Defendant committed the following acts: (1) On June 8, 2009, Defendant was convicted of Conspiracy to Pass Counterfeit Obligations in the Eastern District of Texas, Sherman Division, based upon Defendant passing counterfeit checks at several Home Depot stores in Dallas and Collin counties from July 26, 2008, to August 2, 2008, working in association with Paulette Dye, a convicted felon; (2) Defendant continued to associate with Paulette Dye after being instructed to have no contact with Ms. Dye.

Prior to the Government putting on its case, Defendant entered a plea of true to all of the violations. The Court recommends that Defendant's supervised release be revoked. The Court finds the guideline range in this case is 21 to 24 months.

RECOMMENDATION

The Court recommends that the District Judge revoke Defendant's supervised release. The Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of twenty-four (24) months with no supervised release to follow. It is also recommended that Defendant be housed in the FMC Carswell. Defendant shall make restitution in the amount of \$83,146.07, joint and several with Gary Daughtry, Robert Gardner, Annette Marie Gibson, LeKeisha Hall, Laneisha Hall, and Kimberly Lockett Price. The restitution is payable by cashier's check or money order to the United States District Clerk's Office, 1100 Commerce St, Room 1452A, Dallas, Texas 75242.

After the Court announced the recommended sentence, Defendant did not execute the consent to revocation of supervised release and waiver of right to be present and speak at sentencing.

Within ten (10) days after service of the magistrate judge's report, any party may serve and file written objections to the findings and recommendations of the magistrate judge. 28 U.S.C.A. § 636(b)(1)(C).

Failure to file written objections to the proposed findings and recommendations contained in this report within ten days after service shall bar an aggrieved party from *de novo* review by the district court of the proposed findings and recommendations and from appellate review of factual findings accepted or adopted by the district court except on grounds of plain error or manifest injustice. *Thomas v. Arn*, 474 U.S. 140, 148 (1985); *Rodriguez v. Bowen*, 857 F.2d 275, 276-77 (5th Cir. 1988).

SIGNED this 14th day of September, 2009.

A handwritten signature in black ink, reading "Amos Mazzant". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

AMOS L. MAZZANT
UNITED STATES MAGISTRATE JUDGE